

IC 33-35-3

Chapter 3. Personnel; Expenses; Costs

IC 33-35-3-1

City court officers; town court officers

Sec. 1. (a) The officers of a city court are a:

- (1) judge;
- (2) clerk; and
- (3) bailiff.

However, in third class cities, the judge may act as clerk and perform all duties of the clerk of the court or appoint a clerk of the court. If the judge does not act as clerk of the court or appoint a clerk of the court, the city clerk-treasurer elected under IC 3-10-6 shall perform the duties of the clerk of the city court.

(b) The clerk is an officer of a town court. The judge of a town court may act as clerk and perform all duties of the clerk of the court or appoint a clerk of the court. If the judge does not act as a clerk of the court or appoint a clerk of the court, the town clerk-treasurer elected under IC 3-10-6 or IC 3-10-7 shall perform the duties of the clerk of the town court.

(c) The clerk and bailiff may not receive any fees or compensation other than their salaries.

As added by P.L.98-2004, SEC.14.

IC 33-35-3-2

Clerk of city court in second or third class cities; powers and duties

Sec. 2. (a) In second class cities, the city clerk is the clerk of the city court. The city clerk of a third class city is the clerk of the city court if the judge does not serve as clerk or appoint a clerk under section 1 of this chapter.

(b) A city clerk of a second class city, a city clerk-treasurer of a third class city, or an appointed clerk in a third class city who serves as the clerk of the city court shall give bond as prescribed in this chapter.

(c) The clerk may administer oaths.

(d) The clerk of a city or town court shall:

- (1) issue all process of the court, affix the seal of the court to the process, and attest to the process;
- (2) keep a complete record and docket of all cases showing:
 - (A) the name of a person who was arrested and brought before the court;
 - (B) the disposition of the case; and
 - (C) an account of the:
 - (i) fees;
 - (ii) fines;
 - (iii) penalties;
 - (iv) forfeitures;
 - (v) judgments;
 - (vi) executions;
 - (vii) decrees; and

- (viii) orders;
in as near to the same manner as the records are kept by the clerk of the circuit court; and
- (3) collect all:
 - (A) fees;
 - (B) fines;
 - (C) penalties and forfeitures;
 - (D) judgments;
 - (E) executions; and
 - (F) money;accruing to the city or town from the enforcement of ordinances.

(e) At the close of each week, the clerk shall make and deliver to the city controller of a second class city, clerk-treasurer of a third class city, or clerk-treasurer of a town a written report of all cases in which the clerk has received or collected any fines or forfeitures due the city or town. The clerk shall then pay over the money to the controller or clerk-treasurer and take a receipt for the payment.

(f) At the end of each month, the clerk shall make out and deliver to the county treasurer of the county in which the city or town is located a written report of all cases in which the clerk has received or collected any fines or forfeitures due the state during the month and pay to the county treasurer all fines or forfeitures collected, taking a receipt for the payment.

(g) In cities in which the county treasurer rather than the city controller receives city money for deposit, the clerk shall report and deliver the money to the county treasurer.

(h) The clerk shall deposit all court costs collected by the clerk in accordance with IC 33-37-7-12. The clerk shall distribute the state and county share of court costs collected in accordance with IC 33-37-7-7 or IC 33-37-7-8.

As added by P.L.98-2004, SEC.14.

IC 33-35-3-3

Bailiff of city courts

Sec. 3. (a) The bailiff of a city court must be a police officer of the city assigned to the court by the chief of police, under direction of the board of public safety. However, the judge of the city court may appoint another person to serve as bailiff.

(b) The bailiff shall give bond payable to the city in the penal sum of one thousand dollars (\$1,000), with surety to be approved by the mayor, conditioned on the faithful and honest discharge of the bailiff's duties. The bond shall be filed in the office of the controller or clerk-treasurer.

(c) The bailiff shall do the following:

- (1) Be present at the sessions of the court, maintaining order and performing all other duties subject to the order of the court.
- (2) Take charge of all executions issued by the court and see to the collection of the executions.
- (3) Keep, in books to be furnished by the controller or

clerk-treasurer, an accurate account and docket of all executions that come into the bailiff's hands, showing the:

- (A) names of the defendants;
- (B) date and number of the execution;
- (C) amount of fines, fees, or penalties imposed; and
- (D) disposition of the execution.

(4) Make and deliver a written report to the clerk of the court on Tuesday of each week, showing all money collected by the bailiff during the previous week, giving the:

- (A) names of the defendants;
- (B) number of executions; and
- (C) amount of fines, fees, or penalties collected;

and pay the money to the clerk, taking the clerk's receipt for the payments.

(d) The salary of the bailiff shall be fixed as salaries of other police officers are fixed.

(e) The bailiff of a city court of the three (3) cities having the largest populations in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall be appointed by the judge of the court. The bailiff shall serve and execute all processes issued by the court and is entitled to receive a salary fixed by the common council of the city. In addition, the bailiff may collect a fee from a defendant for the bailiff's own use on all execution sales of property under an execution or attachment as follows:

- (1) On the first fifty dollars (\$50), ten percent (10%).
- (2) On more than fifty dollars (\$50) and not more than three hundred dollars (\$300), five percent (5%).
- (3) On all sums over three hundred dollars (\$300), three percent (3%).
- (4) Any additional sum necessarily expended by the bailiff in collecting the judgment.

A bailiff may use the bailiff's private vehicle in the performance of the bailiff's duties and is entitled to receive a sum for mileage equal to the sum paid per mile to state officers and employees. The payment to the bailiff is subject to the approval of the judge. The judge shall include in the budget for the court sufficient money to provide for the anticipated claims of the bailiff. The common council shall make annual appropriations that are necessary to carry out this subsection.

As added by P.L.98-2004, SEC.14.

IC 33-35-3-4

Town marshal; service of process

Sec. 4. The town marshal or a deputy marshal shall serve all process issuing from the town court.

As added by P.L.98-2004, SEC.14.

IC 33-35-3-5

City court referees

Sec. 5. (a) The common council of a city having a city court may create the position of city court referee to assist the city court judge in the administration of the judge's duties and the disposition of matters pending in the court. The common council may authorize more than one (1) referee. After authorization is granted, the judge shall appoint one (1) or more referees. The referee or referees serve at the pleasure of the judge.

(b) A referee shall take the same oath of office as provided for the judge and must have the same qualifications for office as required for the judge. A referee may administer oaths in the performance of the referee's duty and use the seal of the court. In all cases coming before the referee, the referee shall comply with the requirements of procedure provided for the hearing of cases by the court. The referee shall make a return of the referee's findings and recommendations in writing to the court, and the court shall proceed to enter the order, judgment, or decree that the court considers proper.

(c) The salary of a referee shall be fixed by the judge subject to the approval of the common council of the city. The common council shall appropriate sufficient money to pay the referee.

As added by P.L.98-2004, SEC.14.

IC 33-35-3-6

Prosecuting attorney or city attorney; prosecutions in city court

Sec. 6. (a) The prosecuting attorney of the judicial circuit in which the city is located shall prosecute all cases in a city court for violation of statutes.

(b) The city attorney shall prosecute all cases of city ordinance violations.

As added by P.L.98-2004, SEC.14.

IC 33-35-3-7

Books, dockets, papers, and printed blanks

Sec. 7. A judge of a city or town court shall provide, at the expense of the city or town, all books, dockets, papers, and printed blanks necessary for the discharge of the duties of the court.

As added by P.L.98-2004, SEC.14.

IC 33-35-3-8

City courts in certain counties; disposition of costs; costs paid in advance

Sec. 8. (a) A clerk of a city court in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall deposit all court costs collected by the clerk in accordance with IC 33-37-7-12. The fees received by the controller from the clerk shall be paid into the city treasury at the time of the semiannual settlement for city revenue.

(b) If the party instituting an action or proceeding recovers judgment, the judgment must also include as costs an amount equal to the small claims costs fee prescribed under IC 33-37-4-5 or IC 33-37-4-6.

(c) Money paid in advance for costs remaining unexpended at the time an action or a proceeding is terminated, whether by reason of dismissal or otherwise, shall be returned to the party or parties making payment. However, this section does not apply to civil actions or proceedings instituted by or on behalf of the state or any of the state's political subdivisions.

(d) This section expires July 1, 2005.

As added by P.L.98-2004, SEC.14.

IC 33-35-3-9

City courts in certain counties; disposition of costs; costs paid in advance

Sec. 9. (a) This section applies after June 30, 2005.

(b) A clerk of a city court in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall deposit all court costs collected by the clerk in accordance with IC 33-37-7-12. The fees received by the controller from the clerk shall be paid into the city treasury at the time of the semiannual settlement for city revenue.

(c) If the party instituting an action or a proceeding recovers judgment, the judgment must also include as costs an amount equal to the small claims costs fee and the small claims service fee prescribed under IC 33-37-4-5 or IC 33-37-4-6.

(d) Money paid in advance for costs remaining unexpended at the time a civil action or proceeding is terminated, whether by reason of dismissal or otherwise, must be returned to the party or parties making payment. However, this section does not apply to civil actions or proceedings instituted by or on behalf of the state or any of the state's political subdivisions.

As added by P.L.98-2004, SEC.14.